



Senate

General Assembly

File No. 842

January Session, 2019

Substitute Senate Bill No. 1055

Senate, April 29, 2019

The Committee on Judiciary reported through SEN. WINFIELD of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT ESTABLISHING A TASK FORCE TO STUDY THE JUROR SELECTION PROCESS, PROVIDING ACCESS TO CERTAIN RECORDS POSSESSED BY THE DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES, CONNECTICUT VALLEY HOSPITAL AND THE PSYCHIATRIC SECURITY REVIEW BOARD AND CONCERNING SENTENCING OF PERSISTENT LARCENY OFFENDERS, NONFINANCIAL CONDITIONS FOR PRETRIAL RELEASE AND CONFIDENTIALITY UPON APPLICATION TO A DIVERSIONARY PROGRAM.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (*Effective from passage*) (a) There is established a task force
- 2 to study jury selection in the state to determine whether processes
- 3 currently in place result in a fair cross-section of the community being
- 4 summoned for jury duty and whether a fair cross-section of the
- 5 community appear for jury service. In connection with such study, the
- 6 task force may (1) collect statistics and conduct data analysis of jurors
- 7 appearing for jury service, (2) review juror selection processes and
- 8 procedures utilized in other jurisdictions, and (3) conduct research that
- 9 is consistent with the objectives of the study. Such study shall be

10 undertaken with the objective of ensuring that the state's juror
11 selection processes encompass a full and fair representation of the
12 community at large.

13 (b) The task force shall consist of the following members:

14 (1) The Chief Court Administrator, or the Chief Court
15 Administrator's designee;

16 (2) The Chief State's Attorney, or the Chief State's Attorney's
17 designee;

18 (3) The Chief Public Defender, or the Chief Public Defender's
19 designee;

20 (4) The Attorney General, or the Attorney General's designee;

21 (5) The Jury Administrator, or the Jury Administrator's designee;

22 (6) The president of the Connecticut Bar Association, or the
23 president's designee;

24 (7) The president of the South Asian Bar Association of Connecticut,
25 or the president's designee;

26 (8) The president of the George W. Crawford Black Bar Association,
27 or the president's designee;

28 (9) The president of the Connecticut Hispanic Bar Association, or
29 the president's designee;

30 (10) The president of the Connecticut Asian Pacific American Bar
31 Association, or the president's designee;

32 (11) The president of the Portuguese Bar Association of Connecticut,
33 or the president's designee;

34 (12) The president of the Connecticut Italian-American Bar
35 Association, or the president's designee; and

36 (13) The deans of The University of Connecticut School of Law,
37 Quinnipiac University School of Law and Yale Law School, or their
38 respective designees.

39 (c) All appointments to the task force shall be made not later than
40 thirty days after the effective date of this section. Any vacancy shall be
41 filled by the appointing authority.

42 (d) The Chief Court Administrator shall select the chairpersons of
43 the task force from among the members of the task force. Such
44 chairpersons shall schedule the first meeting of the task force, which
45 shall be held not later than sixty days after the effective date of this
46 section.

47 (e) The administrative staff of the joint standing committee of the
48 General Assembly having cognizance of matters relating to the
49 judiciary shall serve as administrative staff of the task force.

50 (f) Not later than July 1, 2020, the task force shall report on its
51 findings and recommendations to the joint standing committee of the
52 General Assembly having cognizance of matters relating to the
53 judiciary and to the Chief Court Administrator, in accordance with the
54 provisions of section 11-4a of the general statutes. Such
55 recommendations may include statutory revisions that would enhance
56 the representativeness of the juror array. The task force shall terminate
57 on the date that it submits such report or July 1, 2020, whichever is
58 later.

59 Sec. 2. (NEW) (*Effective from passage*) (a) Any image or recording of
60 an acquittee, who is under the jurisdiction of the Psychiatric Security
61 Review Board, that is recorded within or on the property of any
62 inpatient facility of the Department of Mental Health and Addiction
63 Services where the acquittee receives treatment, shall be reviewable by
64 counsel representing the acquittee in any matter before the Psychiatric
65 Security Review Board or the Superior Court related to the jurisdiction
66 of the Psychiatric Security Review Board upon written request made to
67 the director of such facility. The director of such facility shall permit

68 such review to occur not later than thirty days after the date of receipt
69 of the written request, provided (1) the acquittee consents to such
70 review; (2) any other identifiable patient in the image or recording
71 consents to such review; (3) such review shall be conducted in
72 accordance with the provisions of subsection (d) of section 17a-596 of
73 the general statutes; and (4) the image or recording for which review is
74 sought is not the subject of a pending criminal investigation by state or
75 local law enforcement officials, including any agency police of the
76 Department of Mental Health and Addiction Services, for which there
77 exists a record of such investigation or a pending criminal prosecution.
78 The Department of Mental Health and Addiction Services, when
79 permitting such review, shall adhere to all other provisions of the
80 general statutes and federal law or regulation concerning the
81 confidentiality of records and protected health information of
82 psychiatric patients. As used in this section, "image or recording"
83 includes, but is not limited to, a still or electronically stored
84 photograph and any video or audio recording stored on any device.

85 (b) Notwithstanding the provisions of subsection (a) of this section,
86 any such image or recording shall remain the property of the
87 Department of Mental Health and Addiction Services and shall be
88 utilized and maintained in compliance with all applicable state and
89 federal laws and regulations.

90 Sec. 3. Section 53a-40 of the general statutes is repealed and the
91 following is substituted in lieu thereof (*Effective October 1, 2019*):

92 (a) A persistent dangerous felony offender is a person who:

93 (1) (A) Stands convicted of manslaughter, arson, kidnapping,
94 robbery in the first or second degree, assault in the first degree, home
95 invasion, burglary in the first degree or burglary in the second degree
96 with a firearm, and (B) has been, prior to the commission of the present
97 crime, convicted of and imprisoned under a sentence to a term of
98 imprisonment of more than one year or of death, in this state or in any
99 other state or in a federal correctional institution, for any of the
100 following crimes: (i) The crimes enumerated in subparagraph (A) of

101 this subdivision or an attempt to commit any of said crimes; or (ii)
102 murder, sexual assault in the first or third degree, aggravated sexual
103 assault in the first degree or sexual assault in the third degree with a
104 firearm, or an attempt to commit any of said crimes; or (iii) prior to
105 October 1, 1975, any of the crimes enumerated in section 53a-72, 53a-75
106 or 53a-78 of the general statutes, revision of 1958, revised to 1975, or
107 prior to October 1, 1971, in this state, assault with intent to kill under
108 section 54-117, or any of the crimes enumerated in sections 53-9, 53-10,
109 53-11, 53-12 to 53-16, inclusive, 53-19, 53-21, 53-69, 53-78 to 53-80,
110 inclusive, 53-82, 53-83, 53-86, 53-238 and 53-239 of the general statutes,
111 revision of 1958, revised to 1968, or any predecessor statutes in this
112 state, or an attempt to commit any of said crimes; or (iv) in any other
113 state, any crimes the essential elements of which are substantially the
114 same as any of the crimes enumerated in subparagraph (A) of this
115 subdivision or this subparagraph; or

116 (2) (A) Stands convicted of sexual assault in the first or third degree,
117 aggravated sexual assault in the first degree or sexual assault in the
118 third degree with a firearm, and (B) has been, prior to the commission
119 of the present crime, convicted of and imprisoned under a sentence to
120 a term of imprisonment of more than one year or of death, in this state
121 or in any other state or in a federal correctional institution, for any of
122 the following crimes: (i) Murder, manslaughter, arson, kidnapping,
123 robbery in the first or second degree, assault in the first degree, home
124 invasion, burglary in the first degree or burglary in the second degree
125 with a firearm, or an attempt to commit any of said crimes; or (ii) prior
126 to October 1, 1971, in this state, assault with intent to kill under section
127 54-117, or any of the crimes enumerated in sections 53-9, 53-10, 53-11,
128 53-12 to 53-16, inclusive, 53-19, 53-21, 53-69, 53-78 to 53-80, inclusive,
129 53-82, 53-83 and 53-86 of the general statutes, revision of 1958, revised
130 to 1968, or any predecessor statutes in this state, or an attempt to
131 commit any of said crimes; or (iii) in any other state, any crimes the
132 essential elements of which are substantially the same as any of the
133 crimes enumerated in subparagraph (A) of this subdivision or this
134 subparagraph.

135 (b) A persistent dangerous sexual offender is a person who (1)
136 stands convicted of sexual assault in the first or third degree,
137 aggravated sexual assault in the first degree or sexual assault in the
138 third degree with a firearm, and (2) has been, prior to the commission
139 of the present crime, convicted of and imprisoned under a sentence to
140 a term of imprisonment of more than one year, in this state or in any
141 other state or in a federal correctional institution, for (A) any of the
142 crimes enumerated in subdivision (1) of this subsection, or (B) prior to
143 October 1, 1975, any of the crimes enumerated in section 53a-72, 53a-75
144 or 53a-78 of the general statutes, revision of 1958, revised to 1975, or
145 prior to October 1, 1971, in this state, any of the crimes enumerated in
146 section 53-238 or 53-239 of the general statutes, revision of 1958,
147 revised to 1968, or any predecessor statutes in this state, or an attempt
148 to commit any of said crimes, or (C) in any other state, any crimes the
149 essential elements of which are substantially the same as any of the
150 crimes enumerated in subdivision (1) of this subsection or this
151 subdivision.

152 (c) A persistent serious felony offender is a person who (1) stands
153 convicted of a felony, and (2) has been, prior to the commission of the
154 present felony, convicted of and imprisoned under an imposed term of
155 more than one year or of death, in this state or in any other state or in a
156 federal correctional institution, for a crime. This subsection shall not
157 apply where the present conviction is for a crime enumerated in
158 subdivision (1) of subsection (a) of this section and the prior conviction
159 was for a crime other than those enumerated in subsection (a) of this
160 section.

161 (d) A persistent serious sexual offender is a person, other than a
162 person who qualifies as a persistent dangerous sexual offender under
163 subsection (b) of this section, who qualifies as a persistent serious
164 felony offender under subsection (c) of this section and the felony of
165 which such person presently stands convicted is a violation of
166 subdivision (2) of subsection (a) of section 53-21, or section 53a-70, 53a-
167 70a, 53a-70b, 53a-71, 53a-72a or 53a-72b and the prior conviction is for
168 a violation of section 53-21 of the general statutes, revised to January 1,

169 1995, involving sexual contact, committed prior to October 1, 1995, a
170 violation of subdivision (2) of section 53-21 of the general statutes,
171 committed on or after October 1, 1995, and prior to October 1, 2000, a
172 violation of subdivision (2) of subsection (a) of section 53-21 or a
173 violation of section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b.

174 (e) A persistent larceny offender is a person who (1) stands
175 convicted of larceny in the third degree in violation of the provisions of
176 section 53a-124 in effect prior to October 1, 1982, or larceny in the
177 fourth, fifth or sixth degree, and (2) has been, at separate times, [prior
178 to the commission of the present larceny,] twice convicted of the crime
179 of larceny for violations committed during the ten years prior to the
180 commission of the present larceny.

181 (f) A persistent offender for possession of a controlled substance is a
182 person who (1) stands convicted of possession of a controlled
183 substance in violation of the provisions of section 21a-279, and (2) has
184 been, at separate times prior to the commission of the present
185 possession of a controlled substance, twice convicted of the crime of
186 possession of a controlled substance.

187 (g) A persistent felony offender is a person who (1) stands convicted
188 of a felony other than a class D felony, and (2) has been, at separate
189 times prior to the commission of the present felony, twice convicted of
190 a felony other than a class D felony.

191 (h) It shall be an affirmative defense to the charge of being a
192 persistent offender under this section that (1) as to any prior conviction
193 on which the state is relying the defendant was pardoned on the
194 ground of innocence, and (2) without such conviction, the defendant
195 was not two or more times convicted and imprisoned as required by
196 this section.

197 (i) When any person has been found to be a persistent dangerous
198 felony offender, the court, in lieu of imposing the sentence of
199 imprisonment authorized by the general statutes for the crime of
200 which such person presently stands convicted, shall (1) sentence such

201 person to a term of imprisonment that is not (A) less than twice the
202 minimum term of imprisonment authorized for such crime, or (B)
203 more than twice the maximum term of imprisonment authorized for
204 such crime or forty years, whichever is greater, provided, if a
205 mandatory minimum term of imprisonment is authorized for such
206 crime, such sentence shall include a mandatory minimum term of
207 imprisonment that is twice such authorized mandatory minimum term
208 of imprisonment, and (2) if such person has, at separate times prior to
209 the commission of the present crime, been twice convicted of and
210 imprisoned for any of the crimes enumerated in subsection (a) of this
211 section, sentence such person to a term of imprisonment that is not less
212 than three times the minimum term of imprisonment authorized for
213 such crime or more than life, provided, if a mandatory minimum term
214 of imprisonment is authorized for such crime, such sentence shall
215 include a mandatory minimum term of imprisonment that is three
216 times such authorized mandatory minimum term of imprisonment.

217 (j) When any person has been found to be a persistent dangerous
218 sexual offender, the court, in lieu of imposing the sentence of
219 imprisonment authorized by section 53a-35a for the crime of which
220 such person presently stands convicted, shall sentence such person to a
221 term of imprisonment and a period of special parole pursuant to
222 subsection (b) of section 53a-28 which together constitute a sentence of
223 imprisonment for life, as defined in section 53a-35b.

224 (k) When any person has been found to be a persistent serious
225 felony offender, the court in lieu of imposing the sentence of
226 imprisonment authorized by section 53a-35 for the crime of which such
227 person presently stands convicted, or authorized by section 53a-35a if
228 the crime of which such person presently stands convicted was
229 committed on or after July 1, 1981, may impose the sentence of
230 imprisonment authorized by said section for the next more serious
231 degree of felony.

232 (l) When any person has been found to be a persistent serious sexual
233 offender, the court, in lieu of imposing the sentence of imprisonment

234 authorized by section 53a-35a for the crime of which such person
235 presently stands convicted, may impose a sentence of imprisonment
236 and a period of special parole pursuant to subsection (b) of section 53a-
237 28 which together constitute the maximum sentence specified by
238 section 53a-35a for the next more serious degree of felony.

239 (m) (1) When any person has been found to be a persistent larceny
240 offender, the court, in lieu of imposing the sentence authorized by
241 section 53a-36 for the crime of which such person presently stands
242 convicted, may impose the sentence of imprisonment for a class D
243 felony authorized by section 53a-35, if the crime of which such person
244 presently stands convicted was committed prior to July 1, 1981, or
245 authorized by section 53a-35a, if the crime of which such person
246 presently stands convicted was committed on or after July 1, 1981, but
247 prior to October 1, 2019.

248 (2) When any person has been found to be a persistent larceny
249 offender, the court, in lieu of imposing the sentence authorized by
250 section 53a-36 for the crime of which such person presently stands
251 convicted for a violation committed on or after October 1, 2019, may
252 impose the sentence of (A) imprisonment for a class E felony
253 authorized by section 53a-35a, if such person presently stands
254 convicted of a violation of section 53a-125, or (B) imprisonment
255 authorized by section 53a-36 for the next more serious degree of
256 misdemeanor authorized under section 53a-36 if such person presently
257 stands convicted of a violation of section 53a-125a or 53a-125b.

258 (n) When any person has been found to be a persistent offender for
259 possession of a controlled substance, the court, in lieu of imposing the
260 sentence authorized by section 53a-36 for the crime of which such
261 person presently stands convicted, may impose the sentence of
262 imprisonment for a class E felony authorized by section 53a-35a.

263 (o) When any person has been found to be a persistent felony
264 offender, the court, in lieu of imposing the sentence authorized by
265 section 53a-35a for the crime of which such person presently stands
266 convicted, may impose the sentence of imprisonment authorized by

267 said section for the next more serious degree of felony; provided the
268 sentence imposed may not be less than three years, and provided
269 further three years of the sentence so imposed may not be suspended
270 or reduced by the court.

271 (p) (1) Whenever a person is arrested for any of the crimes
272 enumerated in subsection (a) of this section, the prosecuting authority
273 shall investigate and ascertain whether such person has, at separate
274 times prior to the commission of the present crime, been twice
275 convicted of and imprisoned for any of the crimes enumerated in said
276 subsection (a) and would be eligible to be sentenced under subsection
277 (i) of this section if convicted of such crime.

278 (2) If the prosecuting authority ascertains that such person has, at
279 separate times prior to the commission of the present crime, been twice
280 convicted of and imprisoned for any of the crimes enumerated in
281 subsection (a) of this section and such person has been presented to a
282 geographical area courthouse, the prosecuting authority shall cause
283 such person to be transferred to a judicial district courthouse. This
284 subdivision shall not apply to any person charged with larceny in the
285 third, fourth, fifth or sixth degree for the present crime committed on
286 or after October 1, 2019.

287 (3) No court shall accept a plea of guilty, not guilty or nolo
288 contendere from a person arrested for any of the crimes enumerated in
289 subsection (a) of this section unless it finds that the prosecuting
290 authority has complied with the requirements of subdivision (1) of this
291 subsection.

292 (4) If the prosecuting authority ascertains that such person has, at
293 separate times prior to the commission of the present crime, been twice
294 convicted of and imprisoned for any of the crimes enumerated in
295 subsection (a) of this section but decides not to initiate proceedings to
296 seek the sentence enhancement provided by subsection (i) of this
297 section, the prosecuting authority shall state for the record the specific
298 reason or reasons for not initiating such proceedings.

299 (5) If the prosecuting authority ascertains that such person has, at
300 separate times prior to the commission of the present crime, been twice
301 convicted of and imprisoned for any of the crimes enumerated in
302 subsection (a) of this section and initiates proceedings to seek the
303 sentence enhancement provided by subsection (i) of this section, but
304 subsequently decides to terminate such proceedings, the prosecuting
305 authority shall state for the record the specific reason or reasons for
306 terminating such proceedings.

307 Sec. 4. Subsection (c) of section 54-64a of the general statutes is
308 repealed and the following is substituted in lieu thereof (*Effective*
309 *October 1, 2019*):

310 (c) If the court determines that a nonfinancial condition of release
311 should be imposed pursuant to subparagraph (B) of subdivision (1) of
312 subsection (a) or (b) of this section, the court shall order the pretrial
313 release of the person subject to the least restrictive condition or
314 combination of conditions that the court determines will reasonably
315 ensure the appearance of the arrested person in court and, with respect
316 to the release of the person pursuant to subsection (b) of this section,
317 that the safety of any other person will not be endangered, which
318 conditions may include an order that the arrested person do one or
319 more of the following: (1) Remain under the supervision of a
320 designated person or organization; (2) comply with specified
321 restrictions on such person's travel, association or place of abode; (3)
322 not engage in specified activities, including the use or possession of a
323 dangerous weapon; [an intoxicant or a controlled substance;] (4)
324 provide sureties of the peace pursuant to section 54-56f under
325 supervision of a designated bail commissioner or intake, assessment
326 and referral specialist employed by the Judicial Branch; (5) avoid all
327 contact with an alleged victim of the crime and with a potential
328 witness who may testify concerning the offense; (6) maintain
329 employment or, if unemployed, actively seek employment; (7)
330 maintain or commence an educational program; (8) be subject to
331 electronic monitoring; or (9) satisfy any other condition that is
332 reasonably necessary to ensure the appearance of the person in court

333 and that the safety of any other person will not be endangered. The
334 court shall state on the record its reasons for imposing any such
335 nonfinancial condition.

336 Sec. 5. Subsection (a) of section 54-56g of the general statutes is
337 repealed and the following is substituted in lieu thereof (*Effective from*
338 *passage*):

339 (a) (1) There shall be a pretrial alcohol education program for
340 persons charged with a violation of section 14-227a, 14-227g or 14-
341 227m, subdivision (1) or (2) of subsection (a) of section 14-227n or
342 section 15-133 or 15-140n. Upon application by any such person for
343 participation in such program, [and payment] the court shall, but only
344 as to the public, order the court file sealed, and such person shall pay
345 to the court [of] an application fee of one hundred dollars and a
346 nonrefundable evaluation fee of one hundred dollars, [the court shall,
347 but only as to the public, order the court file sealed, provided such
348 person states] and such person shall state under oath, in open court or
349 before any person designated by the clerk and duly authorized to
350 administer oaths, under penalties of perjury that: (A) If such person is
351 charged with a violation of section 14-227a, 14-227g or 14-227m,
352 subdivision (1) or (2) of subsection (a) of section 14-227n, subsection
353 (d) of section 15-133 or section 15-140n, such person has not had such
354 program invoked in such person's behalf within the preceding ten
355 years for a violation of section 14-227a, 14-227g or 14-227m,
356 subdivision (1) or (2) of subsection (a) of section 14-227n, subsection
357 (d) of section 15-133 or section 15-140n, (B) such person has not been
358 convicted of a violation of section 53a-56b or 53a-60d, a violation of
359 subsection (a) of section 14-227a before, on or after October 1, 1981, a
360 violation of subdivision (1) or (2) of subsection (a) of section 14-227a on
361 or after October 1, 1985, a violation of section 14-227g, a violation of
362 section 14-227m or a violation of subdivision (1) or (2) of subsection (a)
363 of section 14-227n, (C) such person has not been convicted of a
364 violation of section 15-132a, subsection (d) of section 15-133, section 15-
365 140l or section 15-140n, (D) such person has not been convicted in any
366 other state at any time of an offense the essential elements of which are

367 substantially the same as section 53a-56b, 53a-60d, 15-132a, 15-140l or
368 15-140n, subdivision (1) or (2) of subsection (a) of section 14-227a,
369 section 14-227m, subdivision (1) or (2) of subsection (a) of section 14-
370 227n or subsection (d) of section 15-133, and (E) notice has been given
371 by such person, by registered or certified mail on a form prescribed by
372 the Office of the Chief Court Administrator, to each victim who
373 sustained a serious physical injury, as defined in section 53a-3, which
374 was caused by such person's alleged violation, that such person has
375 applied to participate in the pretrial alcohol education program and
376 that such victim has an opportunity to be heard by the court on the
377 application.

378 (2) The court shall provide each such victim who sustained a serious
379 physical injury an opportunity to be heard prior to granting an
380 application under this section. Unless good cause is shown, a person
381 shall be ineligible for participation in such pretrial alcohol education
382 program if such person's alleged violation of section 14-227a, 14-227g
383 or 14-227m, subdivision (1) or (2) of subsection (a) of section 14-227n or
384 subsection (d) of section 15-133 caused the serious physical injury, as
385 defined in section 53a-3, of another person.

386 (3) The application fee imposed under this subsection shall be
387 credited to the Criminal Injuries Compensation Fund established
388 under section 54-215. The evaluation fee imposed under this
389 subsection shall be credited to the pretrial account established under
390 section 54-56k.

391 Sec. 6. Subsection (b) of section 54-56i of the general statutes is
392 repealed and the following is substituted in lieu thereof (*Effective from*
393 *passage*):

394 (b) Upon application by any such person for participation in such
395 program, [and payment] the court shall, but only as to the public,
396 order the court file sealed, and such person shall pay to the court of an
397 application fee of one hundred dollars and a nonrefundable evaluation
398 fee of one hundred fifty dollars. [, the court shall, but only as to the
399 public, order the court file sealed.] A person shall be ineligible for

400 participation in such pretrial drug education and community service
401 program if such person has twice previously participated in (1) the
402 pretrial drug education program established under the provisions of
403 this section in effect prior to October 1, 2013, (2) the community service
404 labor program established under section 53a-39c, (3) the pretrial drug
405 education and community service program established under this
406 section, or (4) any of such programs, except that the court may allow a
407 person who has twice previously participated in such programs to
408 participate in the pretrial drug education and community service
409 program one additional time, for good cause shown. The evaluation
410 and application fee imposed under this subsection shall be credited to
411 the pretrial account established under section 54-56k.

412 Sec. 7. Subsection (a) of section 54-56j of the general statutes is
413 repealed and the following is substituted in lieu thereof (*Effective from*
414 *passage*):

415 (a) There shall be a school violence prevention program for students
416 of a public or private secondary school charged with an offense
417 involving the use or threatened use of physical violence in or on the
418 real property comprising a public or private elementary or secondary
419 school or at a school-sponsored activity as defined in subsection (h) of
420 section 10-233a. Upon application by any such person for participation
421 in such program, the court shall, but only as to the public, order the
422 court file sealed, [provided] and such person [states] shall state under
423 oath, in open court or before any person designated by the clerk and
424 duly authorized to administer oaths, under penalties of perjury that
425 such person has never had such system invoked in such person's
426 behalf and that such person has not been convicted of an offense
427 involving the threatened use of physical violence in or on the real
428 property comprising a public or private elementary or secondary
429 school or at a school-sponsored activity as defined in subsection (h) of
430 section 10-233a, and that such person has not been convicted in any
431 other state at any time of an offense the essential elements of which are
432 substantially the same as such an offense.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>October 1, 2019</i>	53a-40
Sec. 4	<i>October 1, 2019</i>	54-64a(c)
Sec. 5	<i>from passage</i>	54-56g(a)
Sec. 6	<i>from passage</i>	54-56i(b)
Sec. 7	<i>from passage</i>	54-56j(a)

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 20 \$	FY 21 \$
Correction, Dept.	GF - Potential Savings	See Below	See Below
Correction, Dept.	GF - Potential Cost	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

Section 1 establishes a task force to study jury selection in the state to determine whether processes currently in place result in a fair cross-section of the community being summoned for jury duty and whether a fair cross-section of the community appear for jury service.

The group shall submit a report of its findings and recommendations for legislative changes to the Judiciary Committee and to the Chief Court Administrator by July 1, 2020.

This section of the bill has no fiscal impact as PA 17-236 prohibits transportation allowances for task force members.

Section 3 makes various changes to persistent larceny offenders and results in a potential cost and potential savings to the Department of Correction (DOC).

The bill limits a persistent larceny offender to those who have two prior convictions within the last ten years and results in a potential savings to the DOC to the extent that fewer future offenders are persistent offenders. On average, the marginal cost to the state for

incarcerating an offender for the year is \$1,800.¹ Additional savings will only be realized if the inmate population is reduced to the point that unit or facility closures are possible, which is not expected to occur as a result of this bill.

This section also allows the courts to impose longer sentences to persistent larceny offenders and results in a potential cost to the DOC to the extent that courts impose longer sentences. On average, the marginal cost to the state for incarcerating an offender for the year is \$1,800.¹ Additional costs will only be realized if inmate population is increased to the point that new units or facilities are needed, which is not expected to occur as a result of this bill.

The bill makes conforming, technical and other changes that have no fiscal impact.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of persistent larceny offenders and the length of their incarceration.

¹ Inmate marginal cost is based on reduced consumables (e.g. food, clothing, water, sewage, living supplies, etc.) This does not include a reduction in staffing costs or utility expenses because these would only be realized if a unit or facility closed.

OLR Bill Analysis**sSB 1055**

AN ACT ESTABLISHING A TASK FORCE TO STUDY THE JUROR SELECTION PROCESS, PROVIDING ACCESS TO CERTAIN RECORDS POSSESSED BY THE DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES, CONNECTICUT VALLEY HOSPITAL AND THE PSYCHIATRIC SECURITY REVIEW BOARD AND CONCERNING SENTENCING OF PERSISTENT LARCENY OFFENDERS, NONFINANCIAL CONDITIONS FOR PRETRIAL RELEASE AND CONFIDENTIALITY UPON APPLICATION TO A DIVERSIONARY PROGRAM.

SUMMARY

This bill makes various changes to laws on criminal procedure and related statutes. It:

1. establishes a 15-member task force to study the state's juror selection process;
2. establishes conditions under which the Department of Mental Health and Addiction Services (DMHAS) must provide the attorney for an acquittee (i.e., a person found not guilty of a crime by reason of mental disease or defect) the right to review certain images or recordings of the acquittee;
3. applies the persistent larceny offender law to only those defendants whose two prior convictions are within 10 years of the present conviction, and reduces the possible sentence enhancement under that law;
4. removes the specific authority for courts to order defendants to abstain from drug or alcohol use as a condition of pretrial release, while still granting courts the general authority to impose such conditions; and

5. requires courts to seal the records of defendants when they apply for certain pretrial diversionary programs, rather than later in the process as under current law.

EFFECTIVE DATE: Upon passage, except the provisions on persistent larceny offenders and conditions of pretrial release take effect October 1, 2019.

§ 1 — JURY SELECTION TASK FORCE

The bill establishes a 15-member task force to study jury selection in the state to determine whether (1) current processes result in a fair cross-section of the community being summoned for jury duty and (2) a fair cross-section of the community appear for jury service. The study's objective is to ensure that the state's selection processes encompass a full and fair representation of the community.

The task force may (1) collect statistics and conduct data analysis of jurors appearing for jury service, (2) review other jurisdictions' juror selection processes and procedures, and (3) conduct research that is consistent with the study's objectives.

Under the bill, the task force consists of the following individuals or their designees:

1. the chief court administrator, chief state's attorney, chief public defender, attorney general, and jury administrator;
2. the presidents of the Connecticut Bar Association, South Asian Bar Association of Connecticut, George W. Crawford Black Bar Association, Connecticut Hispanic Bar Association, Connecticut Asian Pacific American Bar Association, Portuguese Bar Association of Connecticut, and Connecticut Italian-American Bar Association; and
3. the deans of University of Connecticut School of Law, Quinnipiac University School of Law, and Yale Law School.

The bill requires task force appointments to be made no later than

30 days after the bill's passage. The appointing authority fills any vacancy.

The chief court administrator must select the task force chairpersons from among its members. The chairpersons must schedule the first task force meeting, to be held no later than 60 days after the bill's passage. The Judiciary Committee's administrative staff serves in that capacity for the task force.

By July 1, 2020, the task force must report to the Judiciary Committee and the chief court administrator on its findings and recommendations, which may include legislative recommendations to enhance how juries reflect the community. The task force terminates on the date it submits the report or July 1, 2020, whichever is later.

§ 2 — ACQUITTEE IMAGES AND RECORDINGS

The bill establishes conditions under which DMHAS must provide an acquittee's attorney the right to review certain images or recordings of the acquittee.

These provisions apply to (1) acquittees under the jurisdiction of the Psychiatric Security Review Board (PSRB) who are being treated at a DMHAS inpatient facility and (2) still or electronically stored photographs, and video and audio recordings stored on any device, of the acquittee, taken within the facility or on its property. Subject to the conditions below, the acquittee's attorney has the right to review these images or recordings in any matter before the PSRB or Superior Court related to the PSRB's jurisdiction.

To review these images or recordings, the attorney must send a written request to the facility's director. The director must allow this review to occur within 30 days after receiving the request, as long as:

1. the acquittee, and any other identifiable patient in the image or recording, consents;
2. the review complies with specified existing law on PSRB

hearings (CGS § 17a-596(d)); and

3. the image or recording is not the subject of a pending local or state criminal investigation, including DMHAS agency police, for which there is a record of an investigation or pending prosecution.

The bill requires DMHAS, when granting the attorney access to such images or recordings, to adhere to all other state laws and federal laws and regulations on record confidentiality and protected health information for psychiatric patients.

It also specifies that these images and recordings remain DMHAS property and must be used and maintained in compliance with all applicable state and federal laws and regulations.

§ 3 — PERSISTENT OFFENDERS

The “persistent larceny offender” law allows courts to impose sentence enhancements on certain defendants with at least three larceny convictions. Currently, this law applies to defendants awaiting sentencing for 4th, 5th, or 6th degree larceny who have two separate, prior larceny convictions. The bill limits this law to defendants with two prior convictions committed within 10 years of the present larceny.

Under current law, if the defendant is classified as a persistent larceny offender, the court may impose the prison sentence for a class D felony (i.e., up to five years) rather than the standard sentence for the crime. The underlying larceny offenses (4th, 5th, or 6th degree larceny) are all misdemeanors.

For cases where the present larceny crime was committed on or after October 1, 2019, the bill instead gives courts the option to impose the prison sentences shown in Table 1.

Table 1: Allowable Sentence Enhancements for Persistent Larceny Offenders under the Bill

<i>Present Conviction</i>	<i>Allowable Alternative Prison Sentence</i>
4 th degree larceny (a class A misdemeanor, punishable by up to one year in prison)	Sentence for a class E felony (up to three years in prison)
5 th degree larceny (a class B misdemeanor, punishable by up to six months in prison)	Sentence for a class A misdemeanor (up to one year in prison)
6 th degree larceny (a class C misdemeanor, punishable by up to three months in prison)	Sentence for a class B misdemeanor (up to six months in prison)

As under current law, courts retain the option of sentencing such a defendant to the standard sentence instead of enhancing the sentence.

Under current law, a defendant must be transferred to a judicial district courthouse if he or she (1) is arrested for certain serious crimes (i.e., those listed under the “dangerous felony offender” law) and (2) has two prior convictions for such crimes. The bill specifies that this does not apply if the person is charged with 3rd, 4th, 5th, or 6th degree larceny allegedly committed on or after October 1, 2019. None of these larceny crimes are covered by the “dangerous felony offender” law, so presumably, this provision would only apply if the person was charged with such a larceny crime and a crime covered by that law.

§ 4 — CONDITIONS OF RELEASE

By law, when ordering the pretrial release of a criminal defendant, the court may order nonfinancial conditions of release.

The bill removes the court’s specific authority to order a defendant to refrain from using or possessing drugs or alcohol. But it retains the court’s existing authority to order defendants, in addition to those actions specifically listed in the law, to satisfy other conditions

reasonably necessary to (1) ensure the person's appearance in court and (2) for certain crimes, that the safety of any other person will not be endangered. Existing law, unchanged by the bill, allows the court to order defendants, as a condition of release, to submit to urine drug tests and participate in a program of periodic drug testing and treatment. The court may order this when it has reason to believe that the defendant is drug dependent and when it deems this to be necessary, reasonable, and appropriate (CGS § 54-64a(a) and (b)). (Thus, the legal effect of removing the specific authority as to drug and alcohol use is unclear.)

§§ 5-7 — RECORD SEALING UPON APPLICATION FOR CERTAIN DIVERSIONARY PROGRAMS

The bill requires the court to seal a defendant's records to the public when the defendant applies for the pretrial alcohol education program, pretrial drug education and community service program, or school violence prevention program. Under current law, the records are sealed when the person does the following:

1. alcohol education program: states certain matters under oath about his or her program eligibility, in open court or before a person designated by the court clerk, and pays the required program fees;
2. drug education and community service program: pays the required program fees; and
3. school violence prevention program: states certain matters under oath about his or her program eligibility, in open court or before a person designated by the court clerk.

The bill retains the existing requirement for defendants to state such matters under oath and pay such fees as applicable.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 26 Nay 14 (04/09/2019)